

proceeding retroactive at least to the date of the Public Notice initiating this proceeding. The Commission rejected this request, stating only that compensation was being provided “as soon as practicable.” *First R&O*, ¶ 126.

Given the Commission’s decision in the *Third R&O* to reduce further the dial-around compensation amount, the IXC’s can complain only that they paid too much compensation for, at most, about one year. Independent PSP’s were deprived of *any* compensation for subscriber 800 calls (about 70% of compensable coinless calls) for *more than four years*. It cannot be equitable to require PSP’s to give back any of the compensation they have received to date, when that compensation barely begins to make up for four years’ worth of uncompensated subscriber 800 calls.

By contrast, a retroactive refund would bestow a windfall on the IXC’s. Not only have the IXC’s passed on the full cost of dial-around compensation to consumers through direct surcharges, the IXC’s have also used a variety of other means to recover their costs that, in the aggregate, have resulted in a massive *over*-recovery for the IXC’s’. Thus, rather than having been harmed by being required to pay dial-around compensation, the IXC’s have actually benefited, by turning dial-around calls into a profit center.

The IXC’s began passing on their dial-around costs as surcharges in December 1996. In December 1996, for example, Sprint revised its FCC Tariff No. 2 to add a \$.15 per call Payphone Surcharge for “all Originating payphone traffic including FONCARD traffic, toll free switched and dedicated services traffic, Prepaid card service traffic, and 10CPA-0 Plus Dial-around service traffic” effective December 1,

1996.⁸ Effective April 1, 1997, this charge jumped to \$.35.⁹ The other major carriers have put equivalent surcharges in place. See RBOC Coalition *ex parte* letter from Marie Breslin to Magalie Roman Salas (March 11, 1998), The Toll-Free Truth: Long Distance Companies Overcharge for Payphone Calls, 1, 3 (“Toll-Free Truth”) (pertinent pages attached hereto as Exhibit 2). The amount of these surcharges often exceeded the \$.24 rate in effect during the period in question. See APCC *ex parte* letter from Albert H. Kramer to Magalie Roman Salas (March 16, 1998), History of Payphone Compensation, 19 (“History of Payphone Compensation”) (pertinent pages attached hereto as Exhibit 3). Thus, there is every reason to believe that the surcharges alone *more* than fully compensated the IXC’s for their dial-around costs during the period in question.

On top of the surcharges, however, the IXC’s, most notably AT&T, Sprint, and MCI have raised their rates for subscriber 800 and some interstate and international services in direct response to their dial-around compensation obligations. History of Payphone Compensation at 17; Toll-Free Truth at 1-6. AT&T, for example, increased interstate 800 rates by 3% in February 1997, allegedly to recover increased payphone costs.¹⁰ MCI spread “increase[d] rates as a result of the Payphone Recovery Order” across some 21 categories of service, none of them seemingly related to payphone

⁸ Sprint has estimated that its total monthly cost of paying its \$4.97 share of the monthly \$45.85 per payphone interim compensation to PSPs is \$2.5 million, and it was recovering this new cost through the \$.15 surcharge. See APCC’s *Second RFO* Comments (Aug. 26, 1997), Attachment 5.

⁹ See *id.*, Attachment 7.

¹⁰ See *id.*, Attachment 8.

services. History of Payphone Compensation, 17. *See also* Toll-Free Truth, 6. These rate increases were over and above direct surcharges. According to a study performed by Frost & Sullivan, based on public information provided by AT&T, AT&T's rate increases *alone* totaled some \$642 million in 1997. *See* RBOC Coalition *ex parte* letter from Marie Breslin to Magalie Roman Salas (March 11, 1998) (attaching Frost & Sullivan study re AT&T rate increases).

In addition to recovery from end users, the IXC's also benefited from \$250,000,000 annually in payphone-specific reductions in interstate access charges paid to local exchange carriers ("LECs") as a result of the Commission's rules terminating all subsidies for the LECs' payphone operations. History of Payphone Compensation, 17. Substantial additional subsidies were also terminated at the state level. *Id.*

The IXC's have also received substantial cost savings as the result of the shift away from commissionable 0+ calls. From 1993 to 1997, the number of 0+ calls from the average payphone fell from 51 to 16 calls per month. *See* RBOC Coalition *ex parte* letter from Marie Breslin to Magalie Roman Salas (March 11, 1998) (attaching Frost & Sullivan study re IXC of cost savings). This 69% reduction has dramatically lowered the IXC's payments to PSPs. The IXC's total savings are approximately \$372 million. *Id.*

The IXC's have not passed to their customers on any portion of their cost savings from the reductions in access charges and commissionable 0+ calls. Thus, even if the surcharges and rate increases taken together merely resulted in the IXC's covering their costs—which is not the case—the IXC's have actually over-recovered by *at least*

\$622,000,000 per year in cost savings alone. When the excess surcharges and rate increases are factored in, it becomes apparent that the IXC's have had *at least* a double recovery of their costs. In light of this, the Commission cannot find that a balancing of the equities permits the IXC's to receive a refund and thus increase their already inordinate over-recovery.

CONCLUSION

The Commission should partially reconsider the *Third R&O* as discussed above.

Respectfully submitted,

Special Counsel:

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Attorney for the Colorado Payphone
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Dated: April 21, 1999

ATTACHMENT 2

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July 28, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: CC Docket No. 96-128; NSD File No. L-99-34

Dear Ms. Salas:

The following information is submitted on behalf of the American Public Communications Council, Inc. ("APCC") in response to a staff request for estimates of (1) the number of carriers owing per-call "dial-around" compensation to payphone service providers ("PSPs"), (2) the number of prepaid card service providers; (3) the number of carriers that pay some per-call compensation to PSPs; and (4) the number of compensable calls for which PSPs are not being compensated. The information submitted is based on the compensation collection experience of a number of PSPs and compensation collection agents, including APCC Services, Inc. ("APCCS"), an arm of APCC that operates a compensation collection clearinghouse for several hundred PSP clients.

How Many Carriers Owe Dial-Around Compensation?

Currently, facilities-based interexchange carriers ("IXCs") generally disclaim any liability to pay dial-around compensation for calls that they handle for customers that the IXCs consider to be "switch-based resellers." As a result, a substantial number of payphone calls routed to facilities-based IXCs are uncompensated by those IXCs, and the PSP must attempt to identify, bill and collect compensation from the IXC's reseller customer. Further, the facilities-based IXCs generally provide minimal, if any, assistance in identifying their reseller customers who are liable to pay compensation and the number of calls routed to each reseller for which the IXC is disclaiming payment. Over the past few months, two IXCs have provided the names of hundreds of companies that they allege to be "switch-based resellers" for which the IXCs have not paid "dial-around compensation" ("DAC") to the PSPs. However, even those two IXCs do not provide call volumes for calls handled by their reseller customers. Without this information, PSPs cannot determine which of an

IXC's resellers owe the greatest amount of DAC so that the PSP's legal and other resources can be used most effectively to collect unpaid compensation.

Accordingly, in order to attempt to collect compensation on calls for which facilities-based IXCs disclaim payment, PSPs must find other means to identify switch-based resellers. There is no master list of all carriers that handle calls from payphones. Therefore, APCCS has been forced to piece together information from a variety of sources in order to identify and locate carriers that may be liable to pay payphone compensation. Sources consulted by APCCS include listings of carriers paying regulatory fees and contributions to FCC-administered funds, industry directories, trade association membership listings, and state public service commission registration records. However, none of these sources provides information that indicates (1) whether a reseller owns or controls a switch, and (2) the number of calls, if any, that each carrier has received from payphones operated by APCCS' clients.

Further, APCCS has found that a number of carriers that carry substantial numbers of payphone calls were not even included in the sources mentioned above. For example, many of the resellers recently identified by two underlying IXCs (see above) were not found in the other sources consulted by APCCS.

Using these various methods, in the Fourth Quarter 1999 compensation period, APCCS identified approximately 1,175 carriers as potentially liable to pay compensation. However, APCC has no reason to believe that it has identified all the carriers that may be liable to pay compensation.

How Many Prepaid Card Service Providers Are There?

One category of resellers that receive calls from payphones is prepaid card service providers. This is an important group because prepaid card providers rely on payphone "dial-around" calls as a primary means of access to their services. A substantial percentage of the dial-around calls made from payphones are placed using prepaid cards.

However, as with carriers generally, it is difficult to identify and locate prepaid card providers that receive calls from payphones. In order to help identify prepaid card providers, APCC has encouraged its members to gather "dead" prepaid phone cards left behind at payphone locations and forward them to APCC. To date, over 6,000 phone cards, issued by 178 different prepaid card companies, have been collected by APCC.

APCC has also consulted industry trade association membership listings and state public service commission records to identify prepaid card service providers. One

commission, the Florida Public Service Commission, lists 203 prepaid card providers on its web site (<http://www2.scri.net/psc/mcd/TPDC.html>).

Again, as is the case with resellers generally, these sources do not indicate (1) whether a prepaid card service provider owns or controls a switch, and (2) the number of calls that each prepaid card service provider has received from payphones operated by APCCS' clients.

Based on these results, it appears that there are at least 200, and probably a much larger number, of prepaid card service providers operating in the United States and receiving calls from payphones.

How Many Carriers Pay Compensation?

Very few of the hundreds of resellers that handle calls originating from payphones have voluntarily undertaken to pay compensation to PSPs.

APCCS "bills" the carriers it identifies by sending them a notice on behalf of its clients requesting payment of per-call compensation. Out of 1,175 carriers "billed" in Fourth Quarter 1999, APCCS has received payments to date from 61, or roughly 5%, of the 1,175 companies billed.

As a result of this extremely low response rate, APCCS has had to resort to a variety of measures to try to extract payments from carriers that do not voluntarily respond to a notice. APCCS has even placed ads in industry trade publications urging carriers who have not paid payphone compensation to come forward and satisfy their obligations. To date, no carriers have responded to these ads by undertaking to make payments of DAC.

APCCS's attorneys have sent out over 120 letters putting carriers and resellers on notice of their DAC obligation and demanding that payment be made. There have been only a dozen responses to those letters and fewer than five carriers have begun making DAC payments as a result of those letters.

APCCS and four other compensation collection agents (representing a total of 1,200 PSPs and 300,000 payphones) have been forced to undertake an expensive and time-consuming study involving the call records of a sample of PSPs in order to identify high-volume resellers that have failed to pay DAC. This study has not yet been completed, but the preliminary results have identified many additional carriers and responsible organizations ("Resp Orgs") that are now being sent bills and demand letters for DAC.

In a number of cases, the efforts of APCCS and the other collection agents have been obstructed by Resp Orgs claiming they are not responsible for the payment of DAC, yet refusing to identify their customers who are switch-based resellers and are obligated to make DAC payments. In many instances, resellers that are sent DAC bills claim that (1) they are not aware of the Commission's payphone rules, (2) they have not implemented any system for tracking and recording calls from payphones, or (3) they are only now in the process of contracting with a clearinghouse to handle their DAC payments (some 3 years after the FCC's payphone rules were issued). In many cases, APCCS's efforts to bill and receive payment from resellers have been frustrated because the resellers either no longer are in business or claim they do not operate a switch and, therefore, have no DAC obligation to PSPs.

In the last year, APCCS and four other compensation collection agents have filed 20 lawsuits against carriers to collect unpaid payphone compensation, with a number of others in the preparation stage. Of the 20 lawsuits that have been filed, 18 have been against resellers. About half the lawsuits are still pending. The others have resulted in the collection of more than \$8 million from resellers. One of the resellers sued went bankrupt, frustrating any recovery.

While lawsuits against resellers have been relatively successful to date, they are time consuming and very expensive. In several instances, resellers have attempted to delay APCCS's collection efforts by raising primary jurisdiction issues and seeking referral of the cases to the FCC. Further, APCCS's policy of litigating against non-paying resellers has not resulted in any increase, to date, in the number of carriers voluntarily paying dial-around compensation.

Percentage of Compensation Paid

APCC currently is not able to identify, for all payphones operated by its members, precisely how many payphone calls are compensated and how many remain uncompensated. APCC is conducting a data collection and analysis project to improve its ability to estimate the number of uncompensated calls based on call records generated by payphones. The alternative – utilizing the call recording capabilities of ILEC switches is of limited value at present because only one ILEC, to APCC's knowledge, currently offers a call counting and identification service. Even that ILEC's service is costly and is available only in a few states.

APCC has reviewed data collected by one PSP that operates more than 16,000 payphones. This company utilizes the ILEC call recording service mentioned above. This service identifies the number of dial-around calls completed from payphones. The service also identifies the CIC of the carrier receiving each call.

Ms. Magalie Roman Salas
July 28, 2000
Page 5

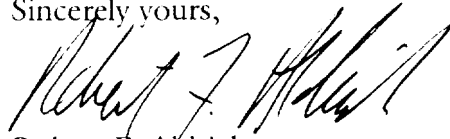
Based on the information collected, this PSP experienced the following results on calls that were routed to one of the "big three" interexchange carriers over a 12-month period from July 1998 through June 1999.

<u>CIC Carrier</u>	<u>Number of calls recorded</u>	<u>Percentage paid/unpaid</u>
AT&T	57 calls/phone/month	72% paid/28% unpaid
MCI Worldcom	80 calls/phone/month	34% paid/66% unpaid
Sprint	36 calls/phone/month	60% paid/40% unpaid
Total	173 calls/phone/month	52% paid/48% unpaid

MCI recently supplemented its payments for this period for payphones that were incorrectly identified as having originated no calls. This increased the overall percentage of calls paid to this PSP and other PSPs, but APCC has not yet been able to quantify the impact on the payment percentages for this PSP.

Some of the shortfall in payments from these carriers is due to apparent call tracking failures on non-reseller calls, but a large portion is due to the IXC's disclaiming liability to make payments on reseller calls. For example, in mid-1998, one large IXC unilaterally reduced its DAC payments to APCCS and other collection agents by approximately 25% to 30% to recoup payments that had been made on behalf of resellers which, according to the IXC, should have been paid by the resellers and not the IXC.

Sincerely yours,



Robert F. Aldrich

RFA/nw

cc: Dorothy Attwood
Yog Varma
Charles Keller
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ATTACHMENT 3

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 5, 1998

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

WRITTEN EX PARTE
PRESENTATION

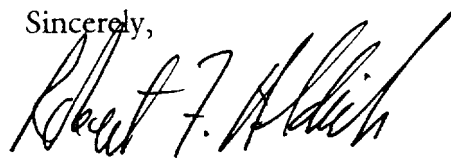
Re: CC Docket No. 96-128

Dear Ms. Salas:

On Thursday, March 5, 1998, Albert Kramer, on behalf of American Public Communications Council, submitted the attached Supplemental letter (supplementing our letter of February 27) to Mary Beth Richards, Deputy Managing Director of the FCC.

Please contact the undersigned if you have any questions.

Sincerely,



Robert F. Aldrich

RFA/nw
cc: Mary Beth Richards
Glenn Reynolds
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March 5, 1998

Mary Beth Richards
Deputy Managing Director
Federal Communications Commission
1919 M Street, N.W.
Room 852
Washington, DC 20554

Re: **CC Docket No. 96-128**

Dear Mary Beth:

This letter supplements our letter of February 27 on behalf of the American Public Communications Council ("APCC"), in which we urged the Commission to address, as soon as possible, the consequences of local exchange carriers ("LECs") continued failure to provide payphone-specific automatic number identification ("ANI") coding digits from "dumb" lines serving "smart" payphones¹ as required by the Payphone Orders.² APCC stressed the need for certainty regarding when and how independent payphone service providers ("PSPs") will be compensated for the fourth quarter of 1997 -- for which compensation payments are due in April 1998 -- by carriers that are unable to track calls in the absence of payphone-specific ANI coding digits.

As noted in the February 27 letter, various carriers subject to payphone compensation obligations have asserted that they are unable to pay compensation in the absence of payphone-specific ANI coding digits. In response to the Commission's grant of

¹ Lines serving "smart" payphones do not provide any network intelligence to operate the payphone. Accordingly, such lines are referred to herein as "dumb" payphone lines. Conversely, lines serving "dumb" payphones do provide network intelligence to operate the payphone. Therefore, such lines are referred to herein as "smart" payphone lines.

² Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd 20,541 (1996) ("Payphone Order"); Order on Reconsideration, 11 FCC Rcd 21,233 (1996) ("Reconsideration Order") (together "Payphone Orders").

waivers to LECs of the requirement to transmit payphone-specific ANI coding digits, some carriers, including AT&T, have requested that the Commission waive the carriers' obligation to pay compensation on a per-call basis for payphones connected to dumb lines (including the vast majority of independent payphones), and to allow them to pay compensation instead on a flat-rate basis to be determined by the Commission. Those waiver requests are pending.

Thus, through no fault of their own, independent PSPs, who have received nothing close to fair compensation for the last eight months, find themselves in a state of uncertainty as to when and on what basis they will receive payphone compensation for the last quarter of 1997. Under the current compensation schedule, compensation payments for the last quarter of 1997 (October 1 through December 31, 1997) are due April 1, 1998. It is essential that the Commission make an immediate ruling to ensure that PSPs will receive fair and timely compensation for the last quarter of 1997.

In our February 27 letter, APCC urged the Commission³ to require, as a condition for waiving per-call compensation obligations, that carriers (including LECs) seeking a waiver must pay per-phone compensation for the fourth quarter of 1997 at a flat rate based on the average call volume from independent payphones. APCC proposed that this compensation should be *provisionally* allocated among carriers based on their proportionate shares of toll revenues, as in the first Report and Order. The carrier allocations would be subject to a true-up based on carriers' *actual* percentage shares of total compensable calls in the fourth quarter of 1997, determined according to carriers' March 31, 1998 reports pursuant to Section 64.1320 of the Commission's rules.

Upon reflection, APCC wishes to suggest, as an alternative, the following modified version of its February 27 proposal. Under this alternative, there would be a few changes from APCC's February 27 proposal. *Final* compensation payments for the fourth quarter of 1997 would be determined in essentially the same manner as in the February 27 proposal.⁴ However, *provisional* compensation would be calculated on a different basis. The Commission would not require provisional compensation to be paid by carriers with more than \$100 million of annual revenue based on each carrier's percentage of overall toll revenues. Instead, the Commission would require *every* carrier subject to compensation

³ On these waiver-related matters, the Common Carrier Bureau may act for the Commission pursuant to delegated authority. Thus, references to the Commission herein can include the Bureau acting for the Commission.

⁴ As discussed below, APCC is submitting with this letter new data from a survey of dial-around calling from independent payphones in 1997. The new data indicates that the average monthly volume of dial-around calling has increased from 152 to 159.

obligations to pay provisional compensation based on the average number of compensable calls actually received from Bell Operating Company ("BOC") smart-line payphones during the fourth quarter of 1997. The carrier's average would be multiplied by a factor to reflect record data indicating the difference between average dial-around calling volume from BOC payphones and independent payphones.

Further, the true-up to arrive at final compensation payments would not be conducted by carriers making true-up payments to one another. Instead, the true-up would require each carrier to pay PSPs (or vice versa) the difference between their provisional compensation payment and their final compensation payment.

The details of the modified proposal are as follows. Independent PSPs would be entitled to final compensation for the fourth quarter of 1997 at a flat rate based on the current record as to call volumes from independent payphones. We are submitting new survey data with this letter showing the current average of dial-around calling at independent payphones for 1997. According to APCC's survey, for the twelve-month period of 1997, dial-around calling averaged 159 calls per payphone per month.⁵ This new data further confirms that there is a substantial disparity between call volume levels generated at independent payphones and the levels reported from LEC payphones using "smart" lines. At the current level of 159 calls per payphone per month, independent PSPs should receive compensation at an overall rate of \$45.16 per payphone per month at the current compensation rate of 28.4 cents per call.

Because the appropriate allocation of this total compensation among carriers cannot be determined before compensation payments are due, each carrier requiring a waiver⁶ would pay *provisional* compensation determined in the following manner. The Commission would require the five Regional Bell Operating Companies ("RBOCs") to immediately disclose, and would place on public notice, the total number of smart

⁵ APCC's survey of 1996 call volumes, discussed in the February 27 letter, showed an average of 152 dial-around calls per month. That average was developed based on 11 months of call records from more than 4,000 diverse payphones. Comments of APCC, filed August 26, 1997, Attachment 4. APCC's 1996 average has been cited by numerous parties on all sides of this proceeding. See e.g., Comments of Comptel, filed August 26, 1997, at 12; Reply Comments of Sprint, filed September 7, 1997, at 4. The 1997 data was developed using essentially the same data sources and methodology. Therefore, this APCC data is the best available estimate of average call volume from independent payphones.

⁶ Carriers requesting a waiver should be required to certify, under penalty of perjury, that they have no way to determine the number of compensable calls received from each dumb line.

payphone lines that were transmitting payphone-specific ANI digits on dial-around calls during the last quarter of 1997. Each carrier would determine its total number of compensable calls received from Regional Bell Operating Companies between October 7, 1997 (the start date for per-call compensation) and December 31, 1997. The carrier would then divide that number of calls by the number of RBOC smart lines specified in the public notice. The result would be each carrier's average number of compensable calls received from smart lines during the last quarter of 1997.

This amount would then be multiplied by a factor to reflect the current record information regarding the difference in average compensable call volume from RBOC payphones and independent payphones. In 1996, the RBOC Coalition estimated that their average compensable call volume from RBOC payphones (which used primarily "smart" lines) was 132 calls per payphone per month.⁷ As noted above, APCC's current estimate of average compensable call volume from independent payphones (using almost exclusively dumb lines) is 159 calls per payphone per month. For purposes of determining provisional compensation, the Commission should require each carrier to multiply the average number of calls received from RBOC payphones by a factor of 159/132, or 1.20, to arrive at a provisional estimate of the average call volume from independent payphones. Each carrier would calculate its provisional payment to PSPs as follows: average compensable calls received from RBOC payphones times 1.20 times 28.4 cents. Thus, if a hypothetical carrier received an average of 20 compensable calls per month from each RBOC payphone during the fourth quarter of 1997, its per phone payment to independent PSPs for the fourth quarter of 1997 would be $20 \times 1.20 \times .284 = \6.82 per phone per month.

This provisional payment would be subject to true-up based on the relationship between the average compensable call volume from independent payphones and the total volume reported by all carriers from RBOC dumb-line payphones. In order to determine the basis for a true-up, the Commission should remind carriers that they are required to report, by March 31, 1998, the total number of compensable calls they received during 1997. 47 CFR § 64.1320. The Commission should clarify that, in order to provide a uniform set of data for determining a true-up, carriers should report separately the number of compensable calls they received from smart payphone lines -- i.e., the number of dial-around calls with "27" associated -- from October 7 through December 31. After receiving all carriers' reports, it is a relatively simple task for the Commission to add up all the totals and calculate the percentage of the total volume of compensable calls that was received by each carrier. The Commission would then designate that percentage as the carrier's final share of the total call volume of 159 calls per payphone per month from

⁷ Ex Parte Letter from Michael Kellogg to William Caton, August 23, 1996, cited in Payphone Order, ¶ 124, n.426.

independent payphones.⁸ Thus, if carriers reported a total of 500 million calls from RBOC payphones in the fourth quarter of 1997, and the hypothetical carrier mentioned above reported 100 million calls, then that carrier's share would be 20%. The hypothetical carrier's final compensation obligation would be 20% of .284 times 159, or \$9.03 per payphone per month. The carrier would make a supplemental payment of the difference between \$9.03 and \$6.82, or \$2.21 per payphone per month to each independent PSP.

While this approach requires some explanation, it is actually a simple, straight-forward procedure that would involve minimal expenditure of Commission resources and would free the Commission from the need for further oversight of the process. The Commission would simply take the call volume data that is already required to be reported, calculate each carrier's percentage share on a spreadsheet, and publish the results. The payment obligations of each carrier would be objectively and finally determined.⁹

The process of calculating final per-phone compensation payments for each carrier is thus simple and straightforward, and should be completed within three weeks of the March 31 date for submission of carrier reports. The Commission should then issue a public notice specifying each carrier's final per-phone compensation obligation, and directing carriers to make supplemental payments, where necessary to meet their final compensation obligations for the fourth quarter of 1997, within 30 days. Carriers making late payments should be subject to interest charges and penalties.

As noted in APCC's earlier letter, it is essential that the final determination of the overall *level* of compensation for independent payphones connected to dumb lines be based on record data as to the level of traffic generated by *independent payphones using dumb lines* -- and not based on the call volumes reported by carriers as originating from smart lines. Smart payphone lines are overwhelmingly LEC payphone lines, and there is no reason to believe that the overall level of dial-around traffic from LEC lines is even approximately equal to the overall level of traffic from independent PSP lines. LECs claim they have large numbers of payphones that generate very little traffic -- the so-called

⁸ Carriers that *are* able to track calls from dumb lines during the waiver period would be included in the calculation of carrier percentages. However, their per-call payments would not be subject to the true-up.

⁹ Further, this simple process, including reliance on data from smart payphones for allocation only, could also be applied to determine carriers' compensation obligations for subsequent waiver periods, and for the "interim" period. For these periods, the provisional payments described above would no longer be necessary. Carriers would make a single, final payment for each subsequent period, and for the interim period.


"semi-public" payphones -- with which independent PSPs do not compete. See e.g., Reply Comments of BellSouth, July 15, 1996, at 4, n.3. LECs also have claimed to be providing numerous "public interest payphones" generating very little traffic. Thus, average levels of dial-around traffic experienced from LEC payphones connected to smart lines are likely to be much lower than the average levels from independent payphones. By contrast, the difference between overall call *volumes* from LEC payphones and independent payphones is unlikely to affect the validity of the *allocation* of call volume *percentages* among carriers.

As noted earlier, APCC's studies provide a reliable estimate of average dial-around traffic from independent payphones. The data has been relied upon by numerous parties on both sides of the compensation proceeding. Because it is based on data from independent payphones, it is the most reliable available basis for estimating the level of dial-around traffic from independent payphones different category of payphones. Independent PSPs should not be forced to accept a compensation level that is based on an entirely different category of payphones maintained almost exclusively by LECs.

Conclusion

The above-described alternative to per-call compensation has become necessary because LECs and IXC's have been dilatory in fulfilling their obligations and as a result have failed to comply with the per-call tracking requirements of the Payphone Orders. The delays in implementing per-call compensation must end. The Commission should not accept any further excuses for non-compliance by LECs or IXC's. LECs should be required to make fully functioning Flex ANI available at all equal access switches by April 30, 1998. IXC's should be required to order Flex ANI no later than 30 days thereafter. Any further non-compliance by LECs or IXC's should incur the strongest available sanctions.

Sincerely,

A handwritten signature in black ink, appearing to read "Albert H. Kramer". The signature is stylized with a large, looped "A" and a trailing "H" and "K".

Albert H. Kramer

AHK/nw
Attachment
cc: Glenn Reynolds
Rose Crellin
Greg Lipscomb
Jennifer Myers
Craig Stroup

ATTACHMENT 1

**APCC Survey of Dial-Around Calling
at Independent Payphones in 1997**

APCC SMDR Project Industry Statistics (12-month Average for 1997)

*By Greg Haledjian, APCC Government Relations Manager
March 5, 1998*

In order to demonstrate call traffic patterns in the independent payphone market, the American Public Communications Council (APCC) asked its members to help APCC collect statistics on call counts and duration (call data) using the station message detail reporting (SMDR) capabilities of their payphones.

Currently, 21 companies operating more than 100,000 payphones have submitted monthly call data for the SMDR Project from January 1997 through December 1997. The samples used total more than 6,000 payphones in 32 states and in 73 different area codes across the United States. The payphones are at a wide variety of locations such as hotels, motels, convenience stores, restaurants, business districts, shopping malls, gas stations, apartment buildings, truck stops and casinos.

APCC members polled their payphones from their computers in order to download the call data into payphone management software. The members exported the call data to monthly files and sent the files to APCC's administrative office for further processing.

As part of this project, APCC compiled a list of "800" numbers that appeared with some frequency on payphones' SMDR records. Calling each number identified the organization subscribing to each collected number. Each number was then placed into one of three categories: (1) carrier access codes; (2) prepaid (or debit) cards; or (3) toll-free subscriber 800 (nonmatched) numbers. Lists of identified carrier access code numbers and prepaid card numbers were provided by APCC to Stefek Enterprises in Killeen, TX. Stefek inserted these lists into a database within its call data analyzer software, Payphone Data Reconfiguration System (PDRS). These lists were then used to determine the frequency of access code and prepaid card calls directed to various carriers from the sample payphones.

APCC used a modified version of PDRS to produce summaries of each company's monthly call data, showing call counts and summary detail for various categories of completed calls. The detail includes call counts for carrier access codes and prepaid card numbers identified with different carriers. The APCC defined a completed call for this project by setting an acceptable duration for each type of call. These reports were exported from PDRS and imported into Excel spreadsheets.

Within Excel, statistics were developed for each company showing month-by-month average call counts per payphone, call percentages and carrier percentages for various categories of calls. Average statistics for all of the companies for each month from January 1997 through December 1997 were developed by aggregating call data from every company submitting call data for each specific month, and averaging each month's total over the number of payphones reporting data for the month.

The 1997 twelve-month average of dial around calls was 159: 33 access code calls, 3 prepaid card calls, and 123 toll-free subscriber calls. The month with the highest number of dial around calls for 1997 was August with 193 calls: 43 access code calls, 4 prepaid card calls, and 146 toll-free subscriber calls. Overall, these numbers are greater than the 1996 eleven-month average of 152 dial around calls: 39 access code calls, 5 prepaid card calls, and 108 toll-free subscriber calls.

APCC is continuing the SMDR Project in order to compile a record of call traffic patterns that is as comprehensive as practicable during this critical period in the development of the payphone compensation rules.

Please let me know if you have any questions or comments.

APCC Industry SMDR Statistics for 1997

Industry Statistics													
Average per ANI													
Year/Month	9701	9702	9703	9704	9705	9706	9707	9708	9709	9710	9711	9712	12-mo Avg
No. of ANIs	3,644	4,754	4,964	4,957	5,753	5,687	6,073	4,174	4,590	3,605	2,478	2,422	4,425
Dial Around Calls													
Access Code	30	28	31	32	37	39	41	43	35	35	26	25	33
Prepaid Card	3	3	4	4	4	4	3	4	2	2	2	1	3
Toll-free Subscriber	105	95	108	117	127	133	139	146	135	146	108	112	123
Total Calls/Month	138	127	143	152	168	176	183	193	172	184	135	139	159

ATTACHMENT 4

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A5691-543

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MAR 26 1998

March 26, 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY COURIER

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

EX PARTE PRESENTATION

Re: CC Docket No. 96-128

Dear Ms. Salas:

American Public Communications Council ("APCC") hereby submits the enclosed report providing further information on APCC's 1997 survey of dial-around calling at independent payphones. The report describes the methodology used by APCC to collect the data and derive average monthly dial-around calling volumes. The report also updates the results of the survey to include late-reported data.

As shown in the report, the companies and payphones included in APCC's survey represent a varied cross-section of the payphone industry, in terms of company size, geographical location, and type of payphone location. Participants were selected based on their ability and willingness to devote time to the collection of data, and their possession of a significant number of payphones with the necessary technology.¹ Participants were asked to report data from either (1) all of a participant's payphones that have the necessary technology or (2) a representative cross-section of their payphones. As shown in the report, the payphones in the sample represent a wide variety of locations. As a result, while APCC's survey does not claim to meet scientific standards of statistical validity, APCC is confident that the sample is representative of independent payphone providers and provides the most accurate available indication of average monthly dial-around call volumes at independent payphones.

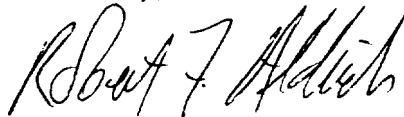
¹ Not all payphones have call detail recording capability that is suitable for generating aggregate information on dial-around calls.

Ms. Magalie Roman Salas
March 26, 1998
Page 2

MCI's ex parte letter dated March 19, 1998 questions why the number of phones varies from month to month. As noted in the report, some companies added or lost phones during the year, and not all companies were able to participate for the entire year. However, APCC did not make any attempt to "load" the survey to achieve any particular result.

The final results of APCC's 1997 survey include additional data from participating companies who were late in reporting data for the later months of 1997. This data was unavailable when the survey was initially submitted by APCC in the letter from Albert H. Kramer to Mary Beth Richards, dated March 5, 1998. Although the inclusion of this late-reported data changes the averages for some months, the monthly average for 1997 as a whole has remained exactly the same: 159 calls per month. Therefore, APCC believes that the Commission can be even more confident that the data submitted is the result of a consistently applied methodology that is representative of monthly dial-around calling volumes at independent payphones.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich". The signature is fluid and cursive, with the first name "Robert" and last name "Aldrich" clearly distinguishable.

Robert F. Aldrich

RFA
Enclosure

cc: Mary Beth Richards
Glenn Reynolds
Rose Crellin
Jennifer Myers
Craig Stroup

APCC'S DIAL-AROUND CALLING SURVEY: 1997 DATA

For the last two years, the American Public Communications Council ("APCC") has worked with its members to collect statistics on the number of "dial-around" (access code, prepaid card, and subscriber 800) calls made from independent (non-local exchange carrier) payphones.

In 1996, 23 companies submitted data to the project over a period of 11 months. Initial results of APCC's 1996 survey, covering March through May, were submitted to the Commission in CC Docket No. 96-128, as Attachment 1 to APCC's Comments, filed July 1, 1996. The Commission relied upon APCC's initial submission, as well as other payphone industry data, in prescribing interim flat-rate compensation for the period from November 6, 1996 through October 7, 1997. The Commission averaged the initial results of APCC's survey, which indicated average dial-around call volume of 142 calls per payphone per month, with submissions of other parties to determine that interim compensation should be based on average dial-around call volume of 131 calls per phone per month. Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd 20,541, ¶¶ 124-25.

Final results of APCC's 1996 survey are described in Attachment 4 to APCC's Remand Comments in CC Docket No. 96-128, filed August 26, 1997. Those results, covering 11 months of 1996, based on data from about 4,400 independent payphones, showed that the average payphone generated 152 dial-around calls per payphone per month. The 1996 data also reported average monthly volumes of other types of calls, and average monthly total calls. APCC's 1996 call data was cited by numerous parties on all sides of this proceeding. See, e.g., Comments of Comptel, filed August 26, 1997; Reply Comments of Sprint, filed September 7, 1997, at 4. Further, the Commission found APCC's call data to be reliable enough to be used by the Commission in its analysis of differences in costs per call between various types of calls. Second Report and Order, FCC 97-371, released October 9, 1997, ¶¶ 49-50.

The survey was continued in 1997 using the same methodology and most of the same sources. During 1997, 21 companies submitted data. The number of payphones in the sample varied from month to month, reflecting relatively minor changes in the composition of the project as companies added or lost payphones with the necessary call recording capability. In addition, not all companies were able to participate in the project during every month of the year. The lowest number of payphones reporting data in any month of 1997 was 3,644 (January). The highest number of payphones reporting data was 6,218 (July). The average number of payphones reporting data was 5,089.

Project Methodology

The payphones reporting data in 1997 were from 37 states and 116 area codes. Companies were selected to participate in the project based on their response to a membership-wide solicitation and based on their possession of a significant number of payphones (at least 50) with the necessary Station Message Detail Reporting ("SMDR") technology. Participating companies varied in size from companies with less than 100 payphones to companies with more than 40,000 payphones. In total, the participating companies operate more than 100,000 payphones.

Companies were asked to report data either (1) from all of a company's payphones equipped with the necessary technology or (2) from a representative cross-section of the payphone locations served by the company. Based on the information supplied by participating companies, location types were represented in the sample in the following percentages:

Convenience Stores	30.9%
Gas Stations	19.9%
General Commercial	8.5%
Shopping Malls	7.3%
Hotels and Motels	3.6%
Schools and Universities	3.2%
Apartment Buildings	3.1%
Truck Stops	3.1%
Government Facilities	0.5%
Other Transportation (rail and bus)	0.3%
Airports	0.1%
Other	19.5%
TOTALS	100.0%

Project participants polled their payphones from their computers in order to download call data into payphone management software. The participants exported the call data to monthly files and sent the files to APCC's administrative office for further processing. Statistics were developed for each company showing month-by-month average dial-around call counts per payphone. Average statistics for all the companies for each month were developed by aggregating call data from every company submitting call data for each specific month, and averaging each month's total over the number of payphones reporting data for the month.

For purposes of this project, a dial-around call is defined to include any 800-number call, any 888-number call, and any other call using a number known to be an access code, prepaid card number or toll-free number. APCC defined a completed call for purposes of this project by setting an acceptable duration for each type of dial-around call: greater than 60 seconds for calls to numbers known to be access codes (including prepaid card numbers), and greater than 1 second for calls to subscriber 800 numbers. Access codes and prepaid card numbers were identified based on a compilation prepared by APCC. See APCC Comments, Att. 1, filed July 1, 1996.

1997 Results

The updated results of the 1997 project are described in Attachment 1. Average monthly dial-around calling ranged from a low of 127 calls per payphone per month in February to a high of 182 calls per payphone per month in July. Average dial-around calling for the whole year was 159 calls per payphone per month.

These final results differ somewhat from the results for 1997 that APCC reported in the letter of Albert H. Kramer to Mary Beth Richards, dated March 5, 1998. The differences, which affect only monthly totals for later months of 1997, reflect the inclusion of additional data from companies that submitted late reports of calling data for the later months of 1997. Significantly, while the addition of this data changed somewhat the averages for those months, the monthly average for the whole year remained exactly the same: 159 calls per payphone per month.

APCC Industry SMDR Statistics for 1997

Industry Statistics													
Average per ANI													
Year/Month	9701	9702	9703	9704	9705	9706	9707	9708	9709	9710	9711	9712	12-mo Avg
No. of ANIs	3,644	4,754	4,964	5,093	5,753	5,832	6,218	5,942	5,522	5,189	4,085	4,066	5,089
Dial Around Calls													
Access Code	30	28	31	32	37	39	40	41	36	36	29	28	34
Prepaid Card	3	3	4	4	4	4	3	3	3	2	1	2	3
Toll-free Subscriber	105	95	108	117	127	133	138	136	137	142	112	118	122
Total Calls/Month	138	127	143	153	168	176	182	180	176	181	142	147	159

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2000, I caused a copy of the foregoing Comments of the American Public Communications Council to be sent by U.S. mail, first class, postage pre-paid to the following:

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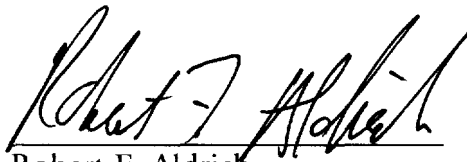
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